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SUBJECT: DRC -- 2009 TIP REPORT: PRESS GUIDANCE AND  
DEMARCHE

REF: A. (A) STATE 59732  
      [B.](#) (B) STATE 005577

[¶](#)1. This is an action cable; see paras 5 through 7 and 10.

[¶](#)2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

[¶](#)3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of the Democratic Republic of the Congo of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of the Democratic Republic of the Congo and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/not precede the Secretary's release at 10:00 am EDT on June 16.

[¶](#)4. The entire TIP Report will be available on-line at [www.state.gov/g/tip](http://www.state.gov/g/tip) shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 EDT.

[¶](#)5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of The Democratic Republic of the Congo of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

[¶](#)6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the

narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

**17. Action Request continued:** On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

**18. Begin Final Text of the Democratic Republic of the Congo,s country narrative in the 2009 TIP Report:**

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DEMOCRATIC REPUBLIC OF THE CONGO (TIER 2 WATCH LIST)  
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The Democratic Republic of the Congo (DRC) is a source and destination country for men, women, and children trafficked for the purposes of forced labor and sexual exploitation. Much of this trafficking occurs within the country,s unstable eastern provinces and is perpetrated by armed groups outside government control. Indigenous and foreign armed militia groups, notably, the Democratic Forces for the Liberation of Rwanda (FDLR), the National Congress for the Defense of the People (CNDP), various local militia (Mai-Mai), and the Lord,s Resistance Army (LRA), continued to abduct and forcibly recruit Congolese men, women, and children to serve as laborers, porters, domestics, combatants, and in sexual servitude. CNDP recruiters, fraudulently promising high-paying employment, enlisted Congolese men and boys from Rwanda-based refugee camps, as well as Rwandan adults and children from towns in western Rwanda, for forced labor and forced soldiering in the DRC.

An unspecified number of children remain with the 81st and 85th non-integrated Congolese national army (FARDC) brigades under the control of Colonel Philemon Yav and Colonel Samy Matumo, respectively. FARDC elements frequently force men in North Kivu province to carry looted goods or to participate in the construction of military facilities; those who resist are sometimes killed. During the past year, a number of children in Ituri were forced to abandon their studies to work for the army. A number of policemen in eastern DRC reportedly arrested people arbitrarily in order to extort money from them; those who could not pay were forced to work until they had &earned8 their freedom.

During the year, the Ugandan terrorist rebel organization, Lord,s Resistance Army (LRA), intensified its operations in areas in and near the DRC,s Orientale Province, abducting at least 750 people, mostly children, between September 2008 and January 2009 in the DRC, Central African Republic, and southern Sudan to serve as domestics, porters, soldiers, and in sexual servitude. An estimated 300 women and children remain captive with the LRA in DRC,s Garamba National Park; some Congolese captives were taken into southern Sudan.

A significant number of unlicensed Congolese artisanal miners ) men and boys ) are exploited in situations of debt bondage by businessmen and supply dealers from whom they acquire cash advances, tools, food, and other provisions at inflated prices, and to whom they must sell the mined minerals at prices below the market value. The miners are forced to continue to work to repay constantly accumulating debts that are virtually impossible to repay. In North and South Kivu Provinces, armed groups and FARDC troops reportedly use threats and coercion to force men and children to mine for minerals. Congolese girls are forcibly prostituted in brothels or informal camps -- including in markets and mining areas -- by loosely organized networks, gangs, and madams. Congolese women and children are trafficked internally for domestic servitude and, in smaller numbers, to South Africa, Republic of the Congo, and European

nations, such as Norway, for sexual exploitation. Some members of Batwa, or pygmy groups, are subjected to conditions of involuntary servitude in agriculture, mining, and domestic work in eastern DRC.

The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Some advances were noted during the reporting period, particularly the enactment of the Child Protection Code, the conviction of an army major -- among others -- for illegally recruiting children, and the launch of a public awareness campaign against the illegal recruitment of child soldiers. Despite these significant efforts, the government did not show evidence of progress in prosecuting and punishing sex trafficking and labor trafficking offenders, demobilizing conscripted child soldiers from its army, or providing protective services for the vast majority of trafficking victims; therefore, the Democratic Republic of the Congo is placed on Tier 2 Watch List. The government continued to lack sufficient financial, technical, and human resources to effectively address trafficking crimes and provide basic levels of security and social services in most parts of the country. The military lacked the capacity to demobilize armed groups or adequately prevent the trafficking violations committed by members of its own forces. The country's criminal and military justice systems, including the police, courts, and prisons, were practically nonexistent after years of war; there were few functioning courts or secure prisons in the country.

Recommendations for the Democratic Republic of the Congo: Increase efforts to prosecute and punish trafficking offenders, particularly those who conscript child soldiers, utilize forced labor, or control children in prostitution; punish military and other law enforcement personnel found unlawfully using local populations to perform forced labor or mine for minerals; in partnership with NGOs or religious entities, ensure the provision of short-term protective services to children who are trafficking victims; and work with concession holders to educate mine operators and workers about the illegality of utilizing forced labor.

#### Prosecution

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The Congolese government made concerted efforts to address the illegal conscription and use of child soldiers by armed groups and government forces through prosecutions and convictions during the reporting period. It demonstrated, however, minimal efforts to bring to justice those committing other types of trafficking crimes. The government lacked judicial presence in many areas of the country where human trafficking occurs and remained hamstrung by a critical shortage of magistrates, clerks, and lawyers. Existing laws do not prohibit all forms of labor trafficking; however, the July 2006 sexual violence statute, Law 6/018, specifically prohibits and prescribes penalties of 10 to 20 years, imprisonment for sex trafficking, child and forced prostitution, and pimping. The Child Protection Code, Law 09/001, enacted in January 2009, criminalizes and prescribes penalties of five to 20 years, imprisonment for child trafficking and commercial sexual exploitation. It also specifically prohibits the recruitment and use of children by the armed forces, armed groups, and the police. The aforementioned penalties prescribed by both laws are sufficiently stringent and commensurate with penalties prescribed for other serious crimes.

In March 2009, Bukavu police arrested a nightclub owner for allegedly prostituting 10 girls and seven boys in his facility; he was remanded to prison to await formal charges. In April 2008, the Bukavu Military Court sentenced FARDC Major Bwasolo Misaba to five years in prison for conscripting children between the ages of 10 to 14 and illegally using them in military ranks. This is DRC's second conviction of a national army officer for illegally recruiting children to be in the armed forces. In March 2009, the Kipushi Military Tribunal sentenced Kynugu Mutanga (a.k.a. Gdon) to death

for crimes against humanity, including illegal child conscription. Seven of his co-defendants received sentences ranging from seven to 10 years, imprisonment for their complicity in these crimes, 11 received lesser sentences, and five were acquitted. In July 2008, Congolese military magistrates and MONUC staff traveled to Orientale Province on a third joint investigative mission to record testimonies of atrocities committed by local Mai-Mai militias; substantial evidence of forced labor of local populations was collected. Kisangani military authorities apprehended five Mai-Mai members for their alleged involvement, but have not set a trial date. Bedi Mubuli Engangela (a.k.a. Colonel 106), a former Mai-Mai commander suspected of insurrection and war crimes, including the illegal conscription of children, remains in detention at Malaka Prison in Kinshasa; a trial date for commencement of his prosecution has not been set. These notable efforts notwithstanding, the government's capacity to apprehend, convict, or imprison traffickers remained weak. Commander Jean-Pierre Biyoyo, formerly of the Mudundu-40 armed group and the first person convicted by Congolese courts of conscripting children, has not been re-apprehended since his escape from prison in June 2006. &Captain Gaston,<sup>8</sup> an armed group commander allegedly responsible for the mid-2006 murder of an NGO child protection advocate, remained at large during the reporting period; his January 2007 arrest warrant has not been executed. Corrupt officials siphoned meager financial resources available to government agencies responsible for combating human trafficking, further disabling the government from pursuing training, capacity building, or victim assistance.

#### Protection

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The government offered minimal protection to trafficking victims during the reporting period. NGOs provide nearly all of the shelter, legal, medical, and psychological services available to trafficking victims. Under the National Disarmament, Demobilization, and Reintegration Plan (PNDDR), all ex-combatants, including child soldiers, pass through a common process during which they disarm and receive information about military and civilian reintegration options. During this process, the National Demobilization Agency (UEPN-DDR), in cooperation with the UN Mission to the DRC (MONUC), identifies, separates out, and transports any identified children to NGO-run centers for temporary housing and vocational training; between 2,200 and 3,000 children were demobilized from armed groups through this process in 2008. A sharp increase in child soldier demobilization took place after the signing of a January 2009 agreement between the FARDC and the CNDP, resulting in the demobilization of 223 child soldiers during the first week of the agreement's implementation. Some FARDC elements essentially outside government control continued during the reporting period to harass, arrest, and physically mistreat children formerly associated with armed groups, including potential trafficking victims; minors detained for child soldiering were generally released quickly if discovered by the MONUC or NGOs. The FARDC lacked sufficient command and control to compel many FARDC commanders, much less militia commanders, with child soldiers serving under them to comply with standing orders to release them.

In December 2008, the Governments of the DRC, Uganda, and Southern Sudan launched a joint military operation against the LRA in the DRC's territory. The operation is ongoing, but as of this Report's writing, it had rescued 346 people, including 127 Congolese, Ugandan, and Sudanese children.

Although the national government did not address forced labor in the mining sector, provincial Ministry of Education offices in Mbuji Mayi, Bunia, and Lubumbashi coordinated with NGOs to reintegrate children working in mines into the formal education system. In April 2008, Katanga's provincial Ministries of Interior and Labor opened the Kasapa residential &welcome center<sup>8</sup> in Lubumbashi to provide street children, including trafficking victims, with protective services and educational programming; the center

is fully funded by the provincial government. Although the Ministry of Labor is responsible for investigating forced child labor and it employs 10 inspectors in Katanga's mining region, the ministry did not conduct any forced child labor investigations in 2008. Government officials recognize the growing problem of child prostitution in the DRC, though authorities have yet to take concrete action against it. In September 2008, Bukavu child protection police trained 12 brothel and nightclub owners regarding the prohibition against utilizing minors to perform sexual services. The government did not employ procedures for proactively identifying victims of trafficking among vulnerable groups, and it lacked formal procedures for referring victims to protective services. The government is not known to encourage victims to assist in investigations against their traffickers. It offered no legal alternatives to the removal of foreign victims to countries in which they may face hardship or retribution.

#### Prevention

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While the government initiated awareness raising efforts against the conscription of child soldiers during the year, it made no significant efforts to prevent other forms of trafficking. To raise the awareness of child soldiering issues among Congolese military and political leaders, the UEPN-DDR held events in Kinshasa, Goma, and Bukavu in June 2008 as part of a campaign of zero tolerance for the use of child soldiers. For the general public residing in these same locations, UEPN-DDR produced sketches, public service announcements, and debates broadcasted by six radio and television stations in July and August. The agency also sent field teams on awareness-raising missions to 23 sites throughout South Kivu, North Kivu, Katanga, and Equateur Provinces. The government did not take any known measures during the reporting period to reduce the demand for commercial sex acts.

**¶9.** Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making

significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1 ) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 13. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website [www.state.gov/g/tip](http://www.state.gov/g/tip).

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June

17 at 3:30 EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or though the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why is the DRC placed on Tier 2 Watch List?

A: DRC was placed on Tier 2 Watch List because the government did not demonstrate sufficient progress in prosecuting and punishing sex trafficking and labor trafficking offenders, demobilizing forcibly conscripted child soldiers from its army, or providing protective services for the vast majority of trafficking victims.

Q2: What are some of the challenges DRC faces in combating trafficking?

A: The government continued to lack sufficient financial, technical, and human resources to effectively address trafficking crimes and provide basic levels of security and social services in most parts of the country. The military lacked the capacity to demobilize armed groups or adequately prevent the trafficking violations committed by its own forces. The country's criminal and military justice systems, including the police, courts, and prisons, were practically nonexistent after years of war; there were few functioning courts or secure prisons in the country.

Q3: Was the Congolese government complicit in human trafficking during the reporting period?

A: Yes. An unknown number of children remain with the 81st and 85th non-integrated Congolese national army (FARDC) brigades. FARDC elements frequently forced men in North Kivu province to carry looted goods or to participate in the construction of military facilities; those who resisted were sometimes killed. During the past year, a number of children in Ituri were forced to abandon their studies to work for the army. In North and South Kivu Provinces, FARDC troops reportedly used threats and coercion to force men and children to mine for minerals. A number of policemen in eastern DRC reportedly arrested people arbitrarily in order to extort money from them; those who could not pay were forced to work until they had &earned8 their freedom.

Q4: What progress did the DRC show in its efforts to address TIP over the last year?

A: Some positive advances were noted during the reporting period, particularly the enactment of the Child Protection Code, which criminalizes child trafficking and commercial sexual exploitation; the conviction of several individuals, including an army major, for illegally recruiting children into armed groups; participation in the demobilization of child soldiers; and the launch of a public awareness campaign against the recruitment of child soldiers.

Q5: What can the DRC do to improve its fight against trafficking in persons?

A: The Congolese government could: increase efforts to prosecute and punish trafficking offenders, particularly those who forcibly conscript child soldiers, utilize forced or bonded labor, or control children in prostitution; punish military and other law enforcement personnel found unlawfully using local populations to perform forced labor or mine for minerals; in partnership with NGOs or religious entities,

ensure the provision of short-term protective services to children in prostitution; and work with concession holders to educate mine operators and workers about the illegality of utilizing forced, bonded, or child labor.

¶12. The Department appreciates posts, assistance with the preceding action requests.

CLINTON